

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.)
)
)
MEYER'S BAKERIES, INC.,)
)
)
Defendants.)
_____)

STIPULATED SETTLEMENT AND ORDER OF DISMISSAL

Plaintiff, the United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA") commenced this action by filing a Complaint with this Court on the ____ day of _____, 2000.

The United States filed its Complaint pursuant to the Clean Air Act ("CAA"), 42 U.S.C. § 7401 *et seq.*, against Meyer's Bakeries, Inc., ("Meyer's" or "Defendant"), seeking the award of civil penalties for Defendant's violations of the industrial refrigerant repair, testing, record-keeping, and reporting regulations at 40 C.F.R. Part 82, Subpart F, §§ 82.152-82.166, ("Recycling and Emission Reduction"), promulgated pursuant to Subchapter VI of the CAA ("Stratospheric Ozone Protection"), 42 U.S.C. §§ 7671-7671q, at its facilities located in Hope, Arkansas; Orlando, Florida; Wichita, Kansas; Cleburne, Texas; and Arizona City, Arizona.

The Parties agree that it is in their respective best interests to resolve this matter without

further litigation.

The Parties by their respective undersigned attorneys, and/or representatives, stipulate and agree as follows:

1. In settlement of the United States' claims under Section 113 of the CAA, 42 U.S.C. § 7413, alleged in the Complaint filed in this action, Defendant shall pay to the United States a civil penalty in the amount of Three Million- Five Hundred Thousand Dollars (\$3,500,000), within thirty (30) days of the date this Stipulated Settlement and Order of Dismissal ("Stipulated Settlement") is entered by the Court.

2. Payment of this sum shall constitute full settlement and satisfaction of all claims against Defendant for civil penalties on behalf of the EPA as set forth in the United States' Complaint.

3. Payment shall be made by Electronic Funds Transfer ("EFT"), in accordance with instructions provided by the United States Attorney's Office for the Western District of Arkansas, P.O. Box 1524, Ft. Smith, Arkansas 72902. Instructions for payment may be obtained by telephoning the United States Attorney's Financial Litigation Unit at (501) 783 - 5125. Copies of the electronic funds transfer and transmittal letter, which shall reference the Department of Justice case number 90-5-2-1-06120, shall simultaneously be mailed, via first class mail, to the following persons:

Richard Bartley, Esq.
Chief, Air, Pesticides & Toxics Enforcement Branch
Office of Regional Counsel
United States EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

and

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044

4. If payment is not made when due, Interest shall accrue, at the statutory interest rate in accordance with 28 U.S.C. § 1961, on any amount overdue. If Interest is due, Defendant shall submit a statement with the payment to the Financial Litigation Unit of the United States Attorney's Office for the Western District of Arkansas, at the address listed above, setting forth the calculation of interest due. Personnel from the United States Attorney's Office, Financial Litigation Unit will advise Defendant in the event such calculation requires adjustment.

5. In the event that Defendant fails to pay the amount specified in Paragraph 1 when due, then, in addition to the Interest required by Paragraph 4 of this Stipulated Settlement, Defendant shall pay a Stipulated Penalty of Twelve Thousand-Five Hundred Dollars (\$12,500) per day for each day that payment is not paid in full.

6. If Stipulated Penalties are due, Defendant shall pay same either by (a) certified or cashier's check if less than \$50,000, or (b) Electronic Funds Transfer ("EFT"), in accordance with instructions provided by the United States Attorney's Office for the Western District of Arkansas, if more than \$50,000. Payments made by certified or cashier's check shall be payable to "Treasurer, the United States of America" and tendered to the United States Attorney's Office, for the Western District of Arkansas, P.O. Box 1524, Ft. Smith, Arkansas 72902.

• 7. Defendant shall be liable for attorneys' fees and costs incurred by the United States in collecting any amounts not paid when due under this Stipulated Settlement.

8. If payment is not made when due, the United States reserves the right to move this Court to vacate this Stipulated Settlement and reinstate this action.

9. Upon entry of this Stipulated Settlement, the United States shall be deemed a judgment creditor for purposes of collection of the civil penalty, Interest and Stipulated Penalties, if any, and enforcement of this Stipulated Settlement in accordance with Rule 69 of the Federal Rules of Civil Procedure and other applicable federal authority.

10. This Stipulated Settlement is limited to the civil claims under the Clean Air Act, as alleged in the Complaint and is not intended to, nor shall be construed to, operate in any way to resolve any civil claims other than those set forth in the Complaint or any criminal liability of Defendant.

11. Nothing in this Stipulated Settlement shall be construed to release Defendant or its agents, successors, or assigns from their respective obligations to comply with any applicable Federal, State, or local law, regulation, or permit. Nothing contained herein shall be construed to prevent or limit the United States' rights to obtain penalties or injunctive relief under the CAA or other Federal statutes or regulations for other alleged violations.

12. Execution of this Stipulated Settlement does not constitute an admission of any fact or legal and/or equitable liability of Defendant.

13. The Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing this Stipulated Settlement.

14. There are no separate agreements or understandings with respect to this matter which have not been set forth in this Stipulated Settlement.

15. Except as set forth in Paragraph 6 of this Stipulated Settlement, each party shall bear

its own costs and attorney's fees in this action.

16. The undersigned representatives of Defendant, and the Assistant Attorney General, certify that each is fully authorized to enter into the terms and conditions of this Stipulated Settlement and to legally bind the party he or she represents to this document.

17. Defendant consents to the entry of this Stipulated Settlement and Order of Dismissal without further notice.

As stipulated and agreed to by the parties, IT IS SO ORDERED AND ENTERED this ____ day of _____, 2000.

United States District Judge
Western District of Arkansas

STIPULATED SETTLEMENT AND ORDER OF DISMISSAL
United States v. Meyer's Bakeries, Inc.
Civil Action No. _____
Western District of Arkansas

FOR THE UNITED STATES OF AMERICA:

DATED:

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division

DATED:

KIRK W. KOESTER
Trial Attorney
Environmental Enforcement Section
Environment & Natural Resources
Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 514-9009


DATED:

P. K. HOLMES
United States Attorney
Western District of Arkansas
P.O. Box 1524
Ft. Smith, Arkansas 72902

STIPULATED SETTLEMENT AND ORDER OF DISMISSAL
United States v. Meyer's Bakeries, Inc.
Civil Action No. _____
Western District of Arkansas

FOR THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY - HEADQUARTERS:

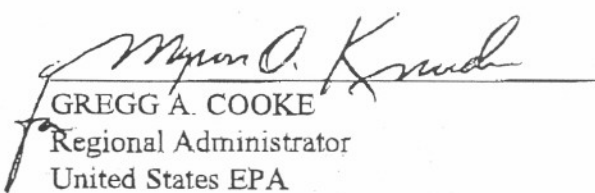
AUG 8 2000
DATED: _____


STEVEN A. HERMAN
Assistant Administrator
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Avenue, N.W.
Ariel Rios Building, Room 3204
Washington, D.C. 20004

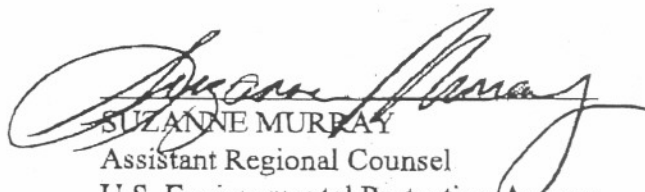
STIPULATED SETTLEMENT AND ORDER OF DISMISSAL
United States v. Meyer's Bakeries, Inc.
Civil Action No. _____
Western District of Arkansas

FOR THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY - REGION VI:

4/27/00
DATED:


GREGG A. COOKE
Regional Administrator
United States EPA
Region VI
1445 Ross Avenue
Dallas, Texas 75202-2733

4/24/00
DATED:


SUZANNE MURRAY
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VI
1445 Ross Avenue
Dallas, Texas 75202-2733

STIPULATED SETTLEMENT AND ORDER OF DISMISSAL
United States v. Meyer's Bakeries, et al.
Civil Action No. _____
Western District of Arkansas

FOR THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY - REGION IV:

3/23/2000

DATED:

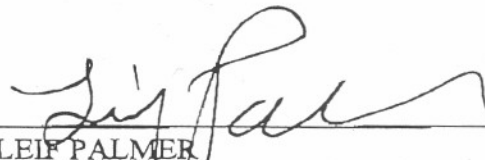


JOHN H. HANKINSON, JR.

Regional Administrator
United States EPA
Region IV
Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960

3/23/2000

DATED:



LEIF PALMER

Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IV
Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960

STIPULATED SETTLEMENT AND ORDER OF DISMISSAL

United States v. Mcycr's Bakeries, et al.

Civil Action No. _____

Western District of Arkansas

FOR THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY-REGION VII:

3/22/00
DATED

Diane K. Calher
DENNIS GRAMS, P.E.
Regional Administrator
United States EPA
Region VII
901 North 5th Street
Kansas City, Kansas 66101


3/22/2000
DATED

Martha R. Steincamp
MARTHA R. STEINCAMP
Regional Counsel
United States EPA
Region VII
901 North 5th Street
Kansas City, Kansas 66101


STIPULATED SETTLEMENT AND ORDER OF DISMISSAL
United States v. Meyer's Bakeries, et. al.
Civil Action No. _____
Western District of Arkansas

FOR THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY - REGION IX:

3/30/00
DATED:


FELICIA A. MARCUS
Regional Administrator
United States EPA
Region IX
715 Hawthorne Street
San Francisco, California 94105

3-23-2000
DATED:

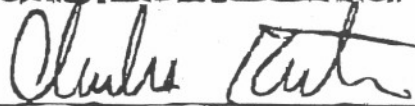

ANN LYONS
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
715 Hawthorne Street
San Francisco, California 94105

STIPULATED SETTLEMENT AND ORDER OF DISMISSAL
United States v. Meyer's Bakeries, et al.
Civil Action No. _____
Western District of Arkansas

FOR MEYER'S BAKERIES INC.:

MAY 16, 2000

DATED:


Meyer's Bakeries, Inc.

SEAL

CHARLES KEETER, PRESIDENT

DATED:

Meyer's Bakeries, Inc.

STIPULATED SETTLEMENT AND ORDER OF DISMISSAL
United States v. Meyer's Bakeries, Inc.
Civil Action No. _____
Western District of Arkansas